

CONTRACT #26
RFS # 343.45-209-05

Department of Health

VENDOR:
Volunteer State Health Plan,
Inc.



**GENERAL ASSEMBLY OF THE STATE OF TENNESSEE
FISCAL REVIEW COMMITTEE**

320 Sixth Avenue, North - 8th Floor
NASHVILLE, TENNESSEE 37243-0057
615-741-2564

Rep. Charles Curtiss, Chairman
Representatives

Harry Brooks
Curt Cobb
Dennis Ferguson
Frank Niceley
Craig Fitzhugh, *ex officio*
Speaker Jimmy Naifeh, *ex officio*
Mary Pruitt
Donna Rowland
David Shepard
Curry Todd

Sen. Don McLeary, Vice-Chairman
Senators

Mae Beavers
Jim Bryson
Steve Cohen
Douglas Henry, *ex officio*
Lt. Governor John S. Wilder, *ex officio*
David Fowler
Steve Southerland

M E M O R A N D U M

TO: The Honorable Dave Goetz, Commissioner
Department of Finance and Administration

FROM: Charles Curtiss, Chairman
Don McLeary, Vice-Chairman

DATE: July 31, 2006

SUBJECT: Contract Comments
(Contract Services Subcommittee Meeting 6/20/06)

RFS # 317.15-003

Department: Finance & Administration/Division of Health Planning

Contractor: Volunteer State Health Plan, Inc.

Summary: The original contract provides the for assistance to those disenrolled individuals who received solid organ transplants under TennCare or Medicare with accessing needed medical and pharmaceutical services to sustain their transplant. This amendment extends the term of the contract an additional year through August 31, 2007.

Maximum liability: \$5,000,000

Maximum liability with amendment: \$5,000,000

After review, the Fiscal Review Committee voted to recommend approval of the contract amendment.

cc: The Honorable Mike Morrow, Assistant Commissioner
Mr. Robert Barlow, Director, Office of Contracts Review



STATE OF TENNESSEE
DEPARTMENT OF HEALTH
CORDELL HULL BLDG.
425 5TH AVENUE NORTH
NASHVILLE TENNESSEE 37247

PHIL BREDESEN
GOVERNOR

SUSAN R. COOPER, MSN, RN
COMMISSIONER

MEMORANDUM

TO: M. David Goetz, Jr., Commissioner, Dept. of Finance & Administration
James W. White, Executive Director, Fiscal Review Committee

FROM: Susan R. Cooper, MSN, RN, Commissioner, Dept. of Health *slc*

DATE: May 15, 2007

SUBJECT: Non-Competitive Contract Amendment Request

We are requesting approval to execute a Non-Competitive Amendment to the Volunteer State Health Plan, Inc. contract. The amendment's start date will be July 1, 2007, which will be less than 60 days after receipt of this non-competitive amendment request.

This amendment will be for the continuation of Safety Net services as authorized by legislation passed in the General Assembly on May 28th, 2005. This amendment will continue to help TennCare disenrollees who had previously received a solid organ transplant under TennCare or Medicare with accessing needed medical and pharmaceutical services to sustain their transplant. Because of the time critical nature of the continued support of these individuals, it is in the State's best interest to continue this program.

We will be happy to provide any further information you may wish immediately upon your request. Thank you for your consideration of this Non-Competitive Amendment Request.

SRC:BAR:br

RECEIVED

MAY 15 2007

FISCAL REVIEW

REQUEST: NON-COMPETITIVE AMENDMENT

RECEIVED

MAY 15 2007

FISCAL REVIEW

APPROVED

Commissioner of Finance & Administration

Date:

EACH REQUEST ITEM BELOW MUST BE DETAILED OR ADDRESSED AS REQUIRED.

1) RFS #	343.45-209-05
2) State Agency Name :	Department of Health
EXISTING CONTRACT INFORMATION	
3) Service Caption :	Safety Net Transplant Assistance for TennCare Disenrollees
4) Contractor :	Volunteer State Health Plan, Inc.
5) Contract #	FA-06-16648-01 (Note that this contract was previously with the Dept. of Finance & Administration)

6) Contract Start Date :	09/01/05
7) <u>Current</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	06/30/07
8) <u>Current</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$5,000,000

PROPOSED AMENDMENT INFORMATION

9) <u>Proposed</u> Amendment #	2
10) <u>Proposed</u> Amendment Effective Date : (attached explanation required if date is < 60 days after F&A receipt)	07/01/07
11) <u>Proposed</u> Contract End Date IF <u>all</u> Options to Extend the Contract are Exercised :	12/31/07
12) <u>Proposed</u> Total Maximum Cost IF <u>all</u> Options to Extend the Contract are Exercised :	\$5,000,000

13) Approval Criteria : (select one)	<input checked="" type="checkbox"/> use of Non-Competitive Negotiation is in the best interest of the state <input type="checkbox"/> only one uniquely qualified service provider able to provide the service
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14) Description of the Proposed Amendment Effects & Any Additional Service:

This Amendment extends the current transplant program through December 31, 2007, under the current contract terms and within the current maximum liability.

15) Explanation of Need for the Proposed Amendment:

This Amendment provides continuation of vital medical and pharmacy assistance to those who received solid organ transplants under

the Medicare or TennCare programs and who were disenrolled as part of the TennCare reform process. This extension provides a bridge for these individuals as new coverage programs are implemented through Cover Tennessee for which these individuals may be eligible.

16) Name & Address of Contractor's Current Principal Owner(s) :
(not required if proposed contractor is a state education institution)

Volunteer State Health Plan, Inc.

801 Pine Street

Chattanooga, TN 37402-2555

17) Documentation of Office for Information Resources Endorsement :
(required only if the subject service involves information technology)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

18) Documentation of Department of Personnel Endorsement :
(required only if the subject service involves training for state employees)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

19) Documentation of State Architect Endorsement :
(required only if the subject service involves construction or real property related services)

select one:



Documentation Not Applicable to this Request



Documentation Attached to this Request

20) Description of Procuring Agency Efforts to Identify Reasonable, Competitive, Procurement Alternatives:

The Department determined that the most expeditious and cost-effective approach to provide this service was through the existing contract.

21) Justification for the Proposed Non-Competitive Amendment:

Because this Amendment continues the provision of vital drugs and services until new program options are available, the Department determined that a non-competitive Amendment to the current agreement was the best alternative. This option continues to minimize disruption and confusion to the population and maximizes the existing infrastructure for program implementation and communication. The Department saves both money and time by using the current vendor for this continuing service, which benefits the TennCare disenrollees and the State.

REQUESTING AGENCY HEAD SIGNATURE & DATE :

(must be signed & dated by the ACTUAL procuring agency head as detailed on the Signature Certification on file with OCR— signature by an authorized signatory will be accepted only in documented exigent circumstances)

Susan C. Cooper MSN, RN

5-15-07

Susan C. Cooper, MSN, RN, Commissioner

Agency Head Signature

Date

C O N T R A C T S U M M A R Y S H E E T

8-8-05

RFS #				Contract #			
343.45-209-05				FA-06-16648-			
State Agency				State Agency Division			
Department of Health				Bureau of Health Services Administration			
Contractor Name				Contractor ID # (FEIN or SSN)			
Volunteer State Health Plan, Inc.				<input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- 62-1656610			
Service Description							
Administrative services to facilitate payment of immediate medical and drug services to identified individuals recently disenrolled from TennCare. Services are for those who have received a solid organ transplant paid for either by TennCare or Medicare.							
Contract Begin Date		Contract End Date		SUBRECIPIENT or VENDOR?		CFDA #	
09/01/05		12/31/07		Vendor			
Mark, if Statement is TRUE							
<input checked="" type="checkbox"/> Contractor is on STARS as required				<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts as required			
Allotment Code		Cost Center		Object Code		Fund	
343.45		40		139		11	
Funding Grant Code		Funding Subgrant Code					
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount		
2006	\$5,000,000.00				\$5,000,000.00		
TOTAL:	\$5,000,000.00				\$5,000,000.00		

PRELIMINARY
NOT FOR ISSUE

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone #	
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Crystal Allen (615) 741-9419	
2006	\$5,000,000	\$0	State Agency Budget Officer Approval	
TOTAL:	\$5,000,000.00	\$0		
End Date:	06/30/2007	12/31/2007		

Contractor Ownership
☐ African American
 ☐ Disabled
 ☐ Hispanic
 ☐ Small Business
 ☒ NOT minority/disadvantaged
☐ Asian
 ☐ Female
 ☐ Native American
 ☐ OTHER minority/disadvantaged—

Contractor Selection Method
☐ RFP
 ☐ Competitive Negotiation
 ☐ Alternative Competitive Method
☒ Non-Competitive Negotiation
 ☐ Government
 ☐ Other

Procurement Process Summary

**AMENDMENT 2
TO CONTRACT FA-06-16648-00**

This Contract, by and between the State of Tennessee, Department of Health, hereinafter referred to as the State, and Volunteer State Health Plan, Inc, hereinafter referred to as the "Contractor," is hereby amended as follows:

1. Delete Section B.1. in its entirety and insert the following in its place:

B.1. Contract Term. This Contract shall be effective for the period commencing on September 1, 2005 and ending on December 31, 2007. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

The other terms and conditions of this contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

VOLUNTEER STATE HEALTH PLAN, INC.:

NAME AND TITLE

DATE

Ronald E. Harr, President and COO, Volunteer State Health Plan, Inc.

DEPARTMENT OF HEALTH:

SUSAN R. COOPER, MSN, RN, COMMISSIONER

DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. GOETZ, JR., COMMISSIONER

DATE

COMPTROLLER OF THE TREASURY:

JOHN G. MORGAN, COMPTROLLER OF THE TREASURY **DATE**

CONTRACT SUMMARY SHEET

021406

RFS #	Contract #
317.15-002	FA-06-16648-01
State Agency	State Agency Division
Finance and Administration	Health Planning
Contractor Name	Contractor ID # (FEIN or SSN)
Volunteer State Health	C- or <input checked="" type="checkbox"/> V- 62-1656610

Service Description

Amendment #1- Extends end date to 6/30/2007

Contract BEGIN Date	Contract END Date	Subrecipient or Vendor?	ICFDA #
9/1/2005	6/30/2007	Vendor	

Mark Each TRUE Statement

☒ Contractor is on STARS ☒ Contractor's Form W-9 is on file in Accounts

Allocation Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
317.15	502	084	11		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006	\$ 5,000,000.00				\$ 5,000,000.00
					\$ -
					\$ -
					\$ -
					\$ -
					\$ -
TOTAL	\$ 5,000,000.00	\$ -	\$ -	\$ -	\$ 5,000,000.00

COMPLETE FOR AMENDMENTS ONLY			State Agency Fiscal Contact & Telephone #
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	
TOTAL	\$ 5,000,000.00	\$ -	
End Date	8/31/2006	6/30/2007	

Contractor Ownership (complete only for base contracts with contract # prefix M-A or GR)

<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business <input checked="" type="checkbox"/> NOT disadvantaged
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged—

Contractor Selection Method (complete for all base contracts—N/A to amendments or delegated authorities)

<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method
<input checked="" type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (eg, ID, GG, GU)	<input type="checkbox"/> Other

Procurement Process Summary (complete for Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)

The department determined that providing these services through the Volunteer State Health Plan (VSHP) enabled the provision of critically needed services on an expedited basis. Because VSHP currently serves TennCare patients and has a system in place to contact the patients in need of these services and the providers currently treating these patients. VSHP can implement this program quickly. As these individuals rely on very specific types of medications and services to maintain and protect the transplanted organ, speed in implementation is critical. In addition, VSHP has agreed to provide these administrative services at no cost to the state through the end of the calendar year. Therefore, the contract provides the needed services while incurring solely the cost of the medical and pharmaceutical services with no administrative expense up front.

SEP 22 2006

DIRECTOR OF ACCOUNT

RECEIVED

SEP 15 2006

MANAGEMENT SERVICES

**AMENDMENT 1
TO CONTRACT FA-06-16648-00**

This Contract, by and between the State of Tennessee, Department of Finance and Administration, hereinafter referred to as the State, and Volunteer State Health Plan, Inc, hereinafter referred to as the "Contractor," is hereby amended as follows:

1. Delete Section B.1. in its entirety and insert the following in its place:
 - B.1. **Contract Term.** This Contract shall be effective for the period commencing on September 1, 2005 and ending on June 30, 2007. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.
2. Delete Section C.3. in its entirety and insert the following in its place:
 - C.3. **Payment Methodology.** For the period September 1, 2005 through December 31, 2005, the Contractor agrees to provide the administrative services required under this Contract for no charge to the State. The Parties hereby agree that the State will pay the Contractor an administrative fee of \$25.00 per member per month for the period of January 1, 2006 through June 30, 2007 for all individuals serviced by the Contractor pursuant to the terms of this agreement.

As for claims payments, the Contractor shall submit semi-monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Payment of claims by the State shall be for reimbursement of actual costs of the claims on or before December 31, 2005 and for actual costs of the claims and administrative fees pursuant to this contract after December 31, 2005.

3. Add the following as Section B.2 and and renumber any subsequent sections as necessary:
 - B.2. **Term Extension.** The State reserves the right to extend the Contract for an additional period or periods of time representing increments of no more than one year and a total contract term of no more than five (5) years, provided that such an extension of the contract term is effected prior to the current, contract expiration date by means of an amendment to the Contract.

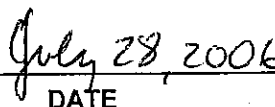
The other terms and conditions of this contract not amended hereby shall remain in full force and effect.

IN WITNESS WHEREOF:

Volunteer State Health Plan, Inc.:



NAME AND TITLE



DATE

Ronald E. Harr, President and COO, Volunteer State Health Plan, Inc.

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M.D. Goetz Jr. 8-7-06
M. D. GOETZ, JR., COMMISSIONER *noA* *jk* DATE

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

MD Goetz Jr SEP 15 2006
M. D. GOETZ, JR., COMMISSIONER DATE

COMPTROLLER OF THE TREASURY:

John G. Morgan 9/19/06
JOHN G. MORGAN, COMPTROLLER OF THE TREASURY DATE

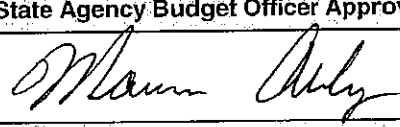
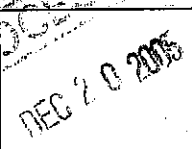
C O N T R A C T S U M M A R Y S H E E T

8-8-05

RFS # <div style="text-align: center; font-size: 1.2em;">317.15-002</div>	Contract # <div style="text-align: center; font-size: 1.2em;">FA-06-16648-00</div>
State Agency Finance and Administration	State Agency Division State Health Planning
Contractor Name Volunteer State Health Plan, Inc. 801 Pine Street Chattanooga, TN 37402-2555	Contractor ID # (FEIN or SSN) <div style="display: flex; justify-content: space-between; align-items: center;"> <div> <input type="checkbox"/> C- or <input checked="" type="checkbox"/> V- </div> <div style="font-size: 1.2em;">62-1656610</div> </div>

Service Description Administrative services to facilitate payment of immediate medical and drug services to identified individuals recently disenrolled from TennCare. Services are for those who have received a solid organ transplant paid for either by TennCare or Medicare.			
Contract Begin Date	Contract End Date	SUBRECIPIENT or VENDOR?	CFDA #
09/01/05	08/31/06	Vendor	

Mark, if Statement is TRUE					
<input checked="" type="checkbox"/> Contractor is on STARS as required			<input checked="" type="checkbox"/> Contractor's Form W-9 is on file in Accounts as required		
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
317.15	502	084	11		
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2006	\$5,000,000.00				\$5,000,000.00
TOTAL:					\$5,000,000.00

— COMPLETE FOR AMENDMENTS ONLY —			State Agency Fiscal Contact & Telephone # Maureen Abbey 20 th Floor, Tennessee Tower, 312 8 th Ave. North Nashville, TN 37243 741-6070
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	State Agency Budget Officer Approval <div style="text-align: center; font-size: 1.5em;">  </div>
			Funding Certification (certification, required by T.C.A., § 9-4-5113, that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)
TOTAL:			<div style="text-align: center;">  </div>
End Date:			

Contractor Ownership			
<input type="checkbox"/> African American	<input type="checkbox"/> Disabled	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input checked="" type="checkbox"/> NOT minority/disadvantaged
Contractor Selection Method			
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation	<input type="checkbox"/> Alternative Competitive Method	
<input checked="" type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Government	<input type="checkbox"/> Other	

Procurement Process Summary

The Department determined that providing these services through the Volunteer State Health Plan enabled the provision of critically needed services on an expedited basis. Because Volunteer State Health Plan currently serves TennCare patients and has a system in place to contact the patients in need of these services and the providers currently treating these patients, VSHP can implement this program quickly. As these individuals rely on very specific types of medications and services to maintain and protect the transplanted organ, speed in implementation is critical. In addition, the Volunteer State health Plan has agreed to provide these administrative services at no cost to the State through the end of this calendar year. Therefore, the contract provides the the needed services while incurring solely the cost of the medical and pharmaceutical services with no administrative expense up front.

**CONTRACT
BETWEEN THE STATE OF TENNESSEE,
DEPARTMENT OF FINANCE AND ADMINISTRATION
AND**

Volunteer State Health Plan, Inc.

This Professional Services Agreement, by and between the State of Tennessee, Department of Finance and Administration, hereinafter referred to as the "State" and Volunteer State Health Plan, Inc, hereinafter referred to as the "Contractor," is for the provision of administrative services for a transplant program initiated by the State for the purposes of assisting individuals disenrolled from the TennCare program as part of the State's reform efforts beginning in June of 2005, as further defined in the "SCOPE OF SERVICES."

The Contractor is a for-profit corporation. The Contractor's address is:

801 Pine Street
Chattanooga, TN 37402-2555

The Contractor's place of incorporation or organization is Tennessee.

A. SCOPE OF SERVICES:

- A.1. The Contractor is to provide administrative services for a program both of which are described in a Memorandum of Understanding agreed to by both parties and attached hereto as Attachment A. This agreement reaffirms the obligations undertaken by the parties per the Memorandum of Understanding effective September 1, 2005.

B. CONTRACT TERM:

- B.1. Contract Term. This Contract shall be effective for the period commencing on September 1, 2005 and ending on August 31, 2006. The State shall have no obligation for services rendered by the Contractor which are not performed within the specified period.

C. PAYMENT TERMS AND CONDITIONS:

- C.1. Maximum Liability. In no event shall the maximum liability of the State under this Contract exceed \$5,000,000.00 (five million dollars). The State, pursuant to the scope of services, does agree to pay for all claims and administrative fees submitted by the Contractor pursuant to this agreement not to exceed \$5,000,000. The Service Rates in ~~Section C.3 shall constitute the entire compensation due the Contractor for the Service~~ and all of the Contractor's obligations hereunder regardless of the difficulty, materials or equipment required. The Service Rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by the Contractor.

The Contractor is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the State. The maximum liability represents available funds for payment to the Contractor and does not guarantee payment of any such funds to the Contractor under this Contract unless the State requests work and the Contractor performs said work. In which case, the Contractor shall be paid in accordance with the Service Rates detailed in Section C.3. The State is under no obligation to request work from the Contractor in any specific dollar amounts or to request any work at all from the Contractor during any period of this Contract.

- C.2. Compensation Firm. The Service Rates and the Maximum Liability of the State under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.
- C.3. Payment Methodology. For the period September 1, 2005 through December 31, 2005, the Contractor agrees to provide the administrative services required under this Contract for no charge to the State. The Parties hereby agree that the State will pay the Contractor an administrative fee of \$25.00 per member per month for the period of January 1, 2006 through August 31, 2006 for all individuals serviced by the Contractor pursuant to the terms of this agreement.

As for claims payments, the Contractor shall submit semi-monthly invoices, in form and substance acceptable to the State with all of the necessary supporting documentation, prior to any payment. Payment of claims by the State shall be for reimbursement of actual costs of the claims on or before December 31, 2005 and for actual costs of the claims and administrative fees pursuant to this contract after December 31, 2005.

- C.4. Travel Compensation. The Contractor shall not be compensated or reimbursed for travel, meals, or lodging.
- C.5. Payment of Invoice. The payment of the invoice by the State shall not prejudice the State's right to object to or question any invoice or matter in relation thereto. Such payment by the State shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.
- C.6. Invoice Reductions. The Contractor's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the State, on the basis of audits conducted in accordance with the terms of this contract, not to constitute proper remuneration for compensable services.
- C.7. Deductions. The State reserves the right to deduct from amounts which are or shall become due and payable to the Contractor under this or any contract between the Contractor and the State of Tennessee any amounts which are or shall become due and payable to the State of Tennessee by the Contractor.
- C.8. Automatic Deposits. The Contractor shall complete and sign an "Authorization Agreement for Automatic Deposit (ACH Credits) Form." This form shall be provided to the Contractor by the State. Once this form has been completed and submitted to the State by the Contractor all payments to the Contractor, under this or any other contract the Contractor has with the State of Tennessee shall be made by Automated Clearing House (ACH). The Contractor shall not invoice the State for services until the Contractor has completed this form and submitted it to the State.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. Neither the State nor the Contractor shall be bound by this Contract until it is approved by the appropriate officials of both the State and the Contractor in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate Tennessee State officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The State may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the State. The State shall give the Contractor at least thirty (30) days written notice before the effective termination date. The Contractor shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the State be liable to the Contractor for compensation for any service which has not been rendered. Upon such termination, the Contractor shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If the Contractor fails to properly perform its obligations under this Contract in a timely or proper manner, or if the Contractor violates any terms of this Contract, the State shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Notwithstanding the above, the Contractor shall not be relieved of liability to the State for damages sustained by virtue of any breach of this Contract by the Contractor.
- D.5. Subcontracting. The Contractor shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the State. If such subcontracts are approved by the State, they shall contain, at a minimum, sections of this Contract pertaining to "Conflicts of Interest" and "Nondiscrimination" (sections D.6. and D.7.). Notwithstanding any use of approved subcontractors, the Contractor shall be the prime contractor and shall be responsible for all work performed.
- D.6. Conflicts of Interest. The Contractor warrants that no part of the total Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Contractor in connection with any work contemplated or performed relative to this Contract.
- D.7. Nondiscrimination. The Contractor hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of the Contractor on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. The Contractor shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.8. Records. The Contractor shall maintain documentation for all charges against the State under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under this contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the State, the Comptroller

of the Treasury, or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.

- D.9. Monitoring. The Contractor's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the State, the Comptroller of the Treasury, or their duly appointed representatives.
- D.10. Progress Reports. The Contractor shall submit brief, periodic, progress reports to the State as requested.
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create an employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever.
- The Contractor, being an independent contractor and not an employee of the State, agrees to carry adequate public liability and other appropriate forms of insurance, including adequate public liability and other appropriate forms of insurance on the Contractor's employees, and to pay all applicable taxes incident to this Contract.
- D.13. State Liability. The State shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, acts of God, riots, wars, strikes, epidemics or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State of Tennessee. The Contractor agrees that it will be subject to the exclusive jurisdiction of the courts of the State of Tennessee in actions that may arise under this Contract. The Contractor acknowledges and agrees that any rights or claims against the State of Tennessee or its employees hereunder, and any remedies arising therefrom, shall be subject to and limited to those rights and remedies, if any, available under **Tennessee Code Annotated**, Sections 9-8-101 through 9-8-407.
-
- D.17. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.

D.18. Severability. If any terms and conditions of this Contract are held to be invalid or unenforceable as a matter of law, the other terms and conditions hereof shall not be affected thereby and shall remain in full force and effect. To this end, the terms and conditions of this Contract are declared severable.

D.19. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.

E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by facsimile transmission, by overnight courier service, or by first class mail, postage prepaid, addressed to the respective party at the appropriate facsimile number or address as set forth below or to such other party, facsimile number, or address as may be hereafter specified by written notice.

The State:

Jim Shulman
Executive Assistant to the Commissioner
Department of Finance and Administration
State Capitol
First Floor
Nashville, TN 37243
615-741-2401
615-741-9872 (f)

The Contractor:

Ron Harr
Volunteer State Health Plan
801 Pine Street
Chattanooga, TN 37402
423-535-5815 423-535-6300 (f)

All instructions, notices, consents, demands, or other communications shall be considered effectively given as of the day of delivery; as of the date specified for overnight courier service delivery; as of three (3) business days after the date of mailing; or on the day the facsimile transmission is received mechanically by the telefax machine at the receiving location and receipt is verbally confirmed by the sender if prior to 4:30 p.m. CST. Any communication by facsimile transmission shall also be sent by United States mail on the same date of the facsimile transmission.

E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of State and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the State reserves the right to terminate the Contract upon written notice to the Contractor. Said termination shall not be deemed a breach of Contract by the State. Upon receipt of the written notice, the Contractor shall cease all work associated with the Contract. Should such an event occur, the Contractor shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date. Upon such termination, the Contractor shall have no right to recover

from the State any actual, general, special, incidental, consequential, or any other damages whatsoever of any description or amount.

E.4. Annual Report and Audit. The Contractor shall prepare and submit, within nine (9) months after the close of the reporting period, an annual report of its activities funded under this Contract to the commissioner or head of the contracting agency, the Tennessee Comptroller of the Treasury, and the Commissioner of Finance and Administration. The annual report for any Contractor that receives five hundred thousand dollars (\$500,000) or more in aggregate federal and state funding for all its programs shall include audited financial statements. All books of account and financial records shall be subject to annual audit by the Tennessee Comptroller of the Treasury or the Comptroller's duly appointed representative. When an audit is required, the Contractor may, with the prior approval of the Comptroller, engage a licensed independent public accountant to perform the audit. The audit contract between the Contractor and the licensed independent public accountant shall be on a contract form prescribed by the Tennessee Comptroller of the Treasury. Any such audit shall be performed in accordance with generally accepted government auditing standards, the provisions of OMB Circular A-133, if applicable, and the *Audit Manual for Governmental Units and Recipients of Grant Funds* published by the Tennessee Comptroller of the Treasury. The Contractor shall be responsible for reimbursement of the cost of the audit prepared by the Tennessee Comptroller of the Treasury, and payment of fees for the audit prepared by the licensed independent public accountant. Payment of the audit fees of the licensed independent public accountant by the Contractor shall be subject to the provisions relating to such fees contained in the prescribed contract form noted above. Copies of such audits shall be provided to the designated cognizant state agency, the State Contracting Department, the Tennessee Comptroller of the Treasury, and the Department of Finance and Administration and shall be made available to the public.

E.5. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or services. Such procurements shall be made on a competitive basis, where practical.

E.6. Lobbying. The Contractor certifies, to the best of its knowledge and belief, that:

No federally appropriated funds have been paid or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, and entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-grants, subcontracts, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients of federally appropriated funds shall certify and disclose accordingly.

E.7. Public Funding Notice. All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Contractor relative to this Contract shall include the statement, "This project is funded under an agreement

with the State of Tennessee." Any such notices by the Contractor shall be approved by the State.

- E.8. Prohibited Advertising. The Contractor shall not refer to this Contract or the Contractor's relationship with the State hereunder in commercial advertising in such a manner as to state or imply that the Contractor or the Contractor's services are endorsed.
- E.9. Confidentiality of Records. Strict standards of confidentiality of records shall be maintained in accordance with the law. All material and information, regardless of form, medium or method of communication, provided to the Contractor by the State or acquired by the Contractor on behalf of the State shall be regarded as confidential information in accordance with the provisions of State law and ethical standards and shall not be disclosed, and all necessary steps shall be taken by the Contractor to safeguard the confidentiality of such material or information in conformance with State law and ethical standards.

The Contractor will be deemed to have satisfied its obligations under this section by exercising the same level of care to preserve the confidentiality of the State's information as the Contractor exercises to protect its own confidential information so long as such standard of care does not violate the applicable provisions of the first paragraph of this section.

The Contractor's obligations under this section do not apply to information in the public domain; entering the public domain but not from a breach by the Contractor of this Contract; previously possessed by the Contractor without written obligations to the State to protect it; acquired by the Contractor without written restrictions against disclosure from a third party which, to the Contractor's knowledge, is free to disclose the information; independently developed by the Contractor without the use of the State's information; or, disclosed by the State to others without restrictions against disclosure.

It is expressly understood and agreed the obligations set forth in this section shall survive the termination of this Contract.

- E.10. Public Accountability. If this Contract involves the provision of services to citizens by the Contractor on behalf of the State, the Contractor agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and the Contractor agrees to display a sign stating:

"NOTICE: This Contractor is a recipient of taxpayer funding. If you observe an employee engaging in any activity which you consider to be illegal or improper, please call the State Comptroller's toll free hotline: 1-800-232-5454"

Said sign shall be displayed in a prominent place, located near the passageway(s) through which the public passes to receive State funded services.

- E.11. Environmental Tobacco Smoke. Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the Tennessee "Children's Act for Clean Indoor Air of 1995," the Contractor shall prohibit smoking of tobacco products within any indoor premises in which services are provided pursuant to this Contract to individuals under the age of eighteen (18) years. The Contractor shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Contract.

E.12. Date/Time Hold Harmless. As required by **Tennessee Code Annotated**, Section 12-4-118, the contractor shall hold harmless and indemnify the State of Tennessee; its officers and employees; and any agency or political subdivision of the State for any breach of contract caused directly or indirectly by the failure of computer software or any device containing a computer processor to accurately or properly recognize, calculate, display, sort or otherwise process dates or times.

E.13. Hold Harmless. The Contractor agrees to indemnify and hold harmless the State of Tennessee as well as its officers, agents, and employees from and against any and all claims, liabilities, losses, and causes of action which may arise, accrue, or result to any person, firm, corporation, or other entity which may be injured or damaged as a result of acts, omissions, or negligence on the part of the Contractor, its employees, or any person acting for or on its or their behalf relating to this Contract. The Contractor further agrees it shall be liable for the reasonable cost of attorneys for the State in the event such service is necessitated to enforce the terms of this Contract or otherwise enforce the obligations of the Contractor to the State.

In the event of any such suit or claim, the Contractor shall give the State immediate notice thereof and shall provide all assistance required by the State in the State's defense. The State shall give the Contractor written notice of any such claim or suit, and the Contractor shall have full right and obligation to conduct the Contractor's own defense thereof. Nothing contained herein shall be deemed to accord to the Contractor, through its attorney(s), the right to represent the State of Tennessee in any legal matter, such rights being governed by **Tennessee Code Annotated**, Section 8-6-106.

E.14. Tennessee Consolidated Retirement System. The Contractor acknowledges and understands that, subject to statutory exceptions contained in **Tennessee Code Annotated**, Section 8-36-801, et. seq., the law governing the Tennessee Consolidated Retirement System, provides that if a retired member returns to State employment, the member's retirement allowance is suspended during the period of the employment. Accordingly and notwithstanding any provision of this Contract to the contrary, the Contractor agrees that if it is later determined that the true nature of the working relationship between the Contractor and the State under this Contract is that of "employee/employer" and not that of an independent contractor, the Contractor may be required to repay to the Tennessee Consolidated Retirement System the amount of retirement benefits the Contractor received from the Retirement System during the period of this Contract.

E.15. Debarment and Suspension. The Contractor certifies, to the best of its knowledge and belief, that it and its principals:

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal or State department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining attempting to obtain, or performing a public (Federal, State, or Local) transaction or grant under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or Local) with commission of any of the offenses detailed in section b. of this certification; and

- d. have not within a three (3) year period preceding this Contract had one or more public transactions (Federal, State, or Local) terminated for cause or default.

E.16. HIPAA Compliance. The State and Contractor shall comply with obligations under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and its accompanying regulations.

- a. Contractor warrants to the State that it is familiar with the requirements of HIPAA and its accompanying regulations, and will comply with all applicable HIPAA requirements in the course of this contract.
- b. Contractor warrants that it will cooperate with the State, including cooperation and coordination with State privacy officials and other compliance officers required by HIPAA and its regulations, in the course of performance of the Contract so that both parties will be in compliance with HIPAA.
- c. The State and the Contractor will sign documents, including but not limited to business associate agreements, as required by HIPAA and that are reasonably necessary to keep the State and Contractor in compliance with HIPAA. This provision shall not apply if information received by the State under this Contract is NOT "protected health information" as defined by HIPAA, or if HIPAA permits the State to receive such information without entering into a business associate agreement or signing another such document.

(remainder of page intentionally left blank)

IN WITNESS WHEREOF:

Volunteer State Health Plan, Inc.:

Ronald E. Harris DEC. 9, 2005
[NAME AND TITLE] WITH PERMISSION Date
PRESIDENT & CEO
VSHPI, INC.

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr. 12-15-05
M. D. Goetz, Jr., Commissioner Date

APPROVED:

DEPARTMENT OF FINANCE AND ADMINISTRATION:

M. D. Goetz, Jr. 12/16/05
M. D. Goetz, Jr., Commissioner Date

COMPTROLLER OF THE TREASURY:

John G. Morgan 12/19/05
John G. Morgan, Comptroller of the Treasury Date

ATTACHMENT A

Memorandum of Understanding

This Memorandum of Understanding ("MOU") between the State of Tennessee, acting through the Department of Finance and Administration, (hereinafter referred to as "State") and Volunteer State Health Plan (hereinafter referred to as "VSHP"), implements a temporary safety net program designed to provide immediate defined medical and drug services to identified individuals recently disenrolled from the State's TennCare program. These individuals shall include approximately 1,000, but no more than 1,200, individuals disenrolled from TennCare who have received a solid organ transplant (lung, kidney, heart, pancreas, and liver) paid for either by TennCare or Medicare. These individuals constitute a critical group of disenrolled TennCare enrollees that rely on very specific types of medications and services to maintain and protect the transplanted organ.

The State is retaining BCBST's professional services to administer this program on an expedited basis to ensure no disruption of these necessary services to this group of enrollees.

The State shall identify in writing or via electronic data transfer all individuals eligible for the services set forth in this MOU. Such identification shall include the individual's full name, date of birth, social security number, gender, phone number, and mailing address. The identification shall also state whether the individual is eligible for Medicare. VSHP will confirm with the State within two (2) working days after receipt of this identification information that all such information has been received and that the individual will be enrolled in the program created by the State and administered by VSHP under this MOU. VSHP shall only be responsible for providing services to those individuals properly identified by the State, as described above.

VSHP will enroll the individuals properly identified by the State in a unique safety net program designed to provide designated services for these transplant individuals (hereinafter referred to as the "Transplant Program"). These individuals will have the following

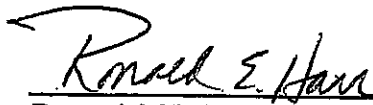
benefits (with the caveat that individuals enrolled in Medicare will only receive drug assistance):

1. Access to ten drugs per month off a list compiled with the assistance of transplant doctors and social workers. These drugs deal with maintaining and protecting transplanted organs. The list of drugs is set forth in Attachment A.
2. A list of drugs that do not apply to the limit of ten that may be made available in case of potential rejection of the organ. The list of drugs, described as IV Meds and IV Rejection Therapy, is set forth in Attachment A.
3. Services as prescribed by transplant doctors subject to certain limits. These limits are ten (10) visits per year to a transplant doctor, ten (10) visits to a lab, ten (10) visits to an outpatient facility, and twenty (20) inpatient days in a licensed hospital facility. For those individuals in the first year after receiving a transplant, those service limits are expanded as set forth in Attachment B.
4. Aggressive case management services including, but not limited to, transferring disenrolled individuals currently on Medicare but who were utilizing TennCare for medications over to Medicare on January 1, 2006 to take advantage of the Medicare Part D program.
5. All services are required to be provided in the State of Tennessee, and no services rendered outside the State of Tennessee are covered under this Transplant Program. No transportation fees will be paid under the Transplant Program.
6. The program is transitional in nature and will end no later than January 1, 2006, but may be extended by mutual agreement of the parties. The State is exploring other possible alternatives for this population and reserves the right to end this program if, prior to January 1, 2006, the State implements an alternative program for transplant individuals.

VSHP agrees to administer the Transplant Program at no charge to the State. Such administration shall only include keeping and updating who is eligible for the Program (from information provided by the State), establishing processes to allow transplant individuals to efficiently obtain allowable drugs and services, monitoring usage of the Program to ensure that individuals get only the drugs and services allowed by the Transplant Program, and providing any relevant or needed information, including needed benefit cards, to eligible participants.

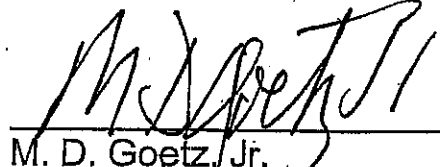
This Program for transplant individuals will go into effect upon acceptance of this MOU by both parties. This MOU will continue for thirty (30) days, with the expectation that the parties to the MOU will execute a written contract extending the Program and VSHP's administration of the Program through December 31, 2005, unless the State terminates this contract with notice of no less than thirty days. This MOU will become effective upon signing.

Signed:



Ronald E. Harr
President and CEO
Volunteer State Health Plan

9/15/05
Date:



M. D. Goetz, Jr.
Commissioner - Finance and Administration
State of Tennessee

9/14/05
Date:

Attachment A

Necessary transplant medications

Norvasc or nifedipine
Toprol or coreg
Accupril, prinvil, or monopril
Minoxidil
Elavil
Clonidine
Atenolol
Zocor or lipitor
Cellcept or myfortic
Gengraf or neoral
Sandimmune
Rapamune
Prograf
Imuran – generic okay
Fosamax
Lantus
Glucophage
Humalog
Omeprazole
Neurontin
Valcyte
Nystatin
Sporanox
Diflucan
Zoloft
Paxil
Wellbutrin
Diltiazem - lung
Plavix
Zetia – if can't tolerate statins
Pravastatin – if cannot tolerate other statins
Procrit/Epogen/Aranesp
Septra
Dapsone – if allergic to septra
Lamivudine
Adefovir – if lamivudine resistant
Neupogen
Influenza
Pegasys
PEG-Intron
Rebetrol or Copegus
Rebetron
Roferon-A
Infergen
Isoniazid
Pyridoxine

Rifabutin
Pyrazinamide
Ethambutol
Lovenox
Combivent
Actigall
Spironolactone
Avapro
Celexa
Seroquel

IV Meds:

Ganciclovir – CMV Infection
HBIG – Hepatitis B infection
Venofer, ferlecit, or infed
IVIG

IV Rejection Therapy:

Methylprednisolone
Atgam
Thymoglobulin
OKT3
Cytopen

Attachment B

These are the numbers of clinic visits and related tests/ procedures for organ transplants in the first year. All visits and procedures drop by 50% after the first year.

Liver Transplant:

Labs: 20 per year

3 times weekly for two weeks then
weekly x 2 weeks then
monthly x 2 months then
every 6 weeks forever

Clinic Visits: 20 per year

twice weekly x 2 weeks then
weekly x 1 month then
every 2 weeks x 1 month then
every 3 months for the first year then
every 6 months for the second year then
annually

Readmits:

1 per year

Lung Transplant:

Outpatient Clinic Visits: 20 per year

- Lung Transplant patients are seen post discharge from hospital
 - 2x/week x4 visits then
 - 1x/week x 2visits then
 - 1x/2weeks x2 visits then
 - 1x/month x1visit then
 - every 3months until stabilized
- Patients are also seen in clinic on an intermittent as-needed basis

Outpatient Procedures: Biopsy - 5 per year

- Bronchoscopy with Fluoroscopy and Transbronchial Biopsy
 - Per Surveillance protocol
 - Day 7
 - Day 30
 - 3months
 - 6months
 - 12months
 - Annually
- Flexible bronchoscopy with Dilation
- Rigid bronchoscopy with Dilation/Stent Placement
- these procedures also charge for anesthesia services

Outpatient Tests: Other

- CT scan - at 2months, annually, and prn 2 per year
- V/Q scan - at 2months, annually, and prn 2 per year
- BMT - annually 1 per year
- CXR PA/Lat - with outpatient visits and prn ?? 20 per year
- Radiographs of hip, lumbar spine PRN

Laboratory: typical panel - 20 per year

- CBC/plts
- CMP
- CMV Antigenemia
- Panel Reactive Antibodies
- Magnesium
- PTT/PT INR
- CSA
- FK
- Sirolimus
- Digoxin
- TSH/FT4
- Pathology

Rehospitalization - 1 per year

Kidney Transplant :

Labs - 25 per year

Clinic visits - 25 per year

1 Ultra Sound per year

1 Biopsy per year

Rehospitalization - 2 per year

Heart Transplant :

Labs - 20

Clinic visits - 20

Echocardiograms - 3 per year

Biopsy - minimum 20 per year

Pancreas Transplant :

Ultra sound - 1 per year

1 biopsy per year

rehospitalization - 4 per patient per year

Very important that for each organ there be an extended 10 or more day course of outpatient IV treatment related to rejection or infection. This would be **in addition** to the estimated clinic visit numbers. Common medications used, but not limited to :

Atgam
Thymoglobulin
OKT3
Ganciclovir
HBIG
Venofer, ferrlecit, or infed
Cytosan
Methylprednisolone